IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY APPLICATION No. 397 of 2004
In
OFFICIAL LIQUDATOR REPORT No. 53 of 2003
In
COMPANY PETITION No. 66 of 1988

For Approval and Signature:
HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MAHESHKUMAR ANANDILAL PATEL - Applicant(s)
Versus
O.L. OF SHREE AMBIKA MILLS CO. LTD. & 14 - Respondent(s)

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Appearance :
MR GM JOSHI for Applicant(s) : 1,
OFFICIAL LIQUIDATOR for Respondent(s) : 1,
MR JS YADAV for Respondent(s) : 1,
MR MG NAGARKAR for Respondent(s) : 2,
GOVERNMENT PLEADER for Respondent(s) : 3,
NOTICE SERVED for Respondent(s) : 4 - 5, 7,9 - 10, 12,
MR PRANAV G DESAI for Respondent(s) : 6,
DS AFF.NOT FILED (N) for Respondent(s) : 8, 11, 15,
MR RK MISHRA for Respondent(s) : 13,
MR DS VASAVADA for Respondent(s) : 14,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 12/02/2007

ORAL JUDGMENT

1. This Judge's Summons has been taken out by the applicant – Shri Maheshkumar Anandilal Patel through its power of attorney holder Shri Haribhai Hendubhai Bharwad, claiming to be the original land owner of the land in question, for an appropriate order directing he respondents to pay the compensation for the sold land of the ownership of the applicant admeasuring 18846 sq yds applying the ratio of Rs.15.70 Crores received for the total area of land 1.57 Lacs sq mts and/or to direct the respondents to pay the share in price received as per ratio mentioned above. It is also further prayed for an appropriate order directing the respondents to pay the rent and the outstanding arrears of the rent due and payable in accordance with the law.

2. It is the case on behalf of the applicant that the ancestral land belonging to the forefather of the owner is situated at Rajpur Hirpur Taluka, City Survey No. 75 / 1-2 admeasuring 4 – Acres and 14 – Gunthas which was leased out to

Shri Ambica Mills Limited through its agent Chimanlal Girdharlal to Harivallabhdas Kalidas on 7th August, 1934 on yearly rent of Rs.1490/- on permanent basis vide lease deed dated 5th September, 1934. It is the case on behalf of the applicant that the said land has been sold by the Official Liquidator though the land does not belong to the company in liquidation and that as per Clause – 11 of the lease deed dated 26th June, 1934, as and when the land is acquired by the State Government, he is entitled to the share from the compensation.

3. Shri G.M.Joshi, learned advocate appearing for the applicant has submitted that the land in question has been purchased by the GIDC, however, for that the State Government has given the grant for the purpose of construction of apparel park and therefore, as such, it can be said to be acquisition by the State Government and therefore, the applicant is entitled to the share in the compensation as if the land has been acquired by the State Government.

4. Shri S.N.Shelat, learned Senior Advocate appearing on behalf of the GIDC has submitted that the present application itself is not maintainable as the applicant has failed to establish his title and/or ownership. It is submitted that merely because the grant has been given by the State Government, it cannot be said that the property in question is acquired by the State Government. According to him, the GIDC has purchased the said land in public auction for the purpose of construction of apparel park and therefore, it is requested to dismiss the present application.

5. Shri D.S.Vasavada, learned advocate appearing for the Textile Labour Association as well as Shri J.S.Yadav, learned advocate appearing for the Official Liquidator have adopted the above submissions and have requested to dismiss the present application.

6. It is required to be noted that the applicant is

claiming some right on the basis of the lease deed dated 26.6.1934 which is at Annexure – A to the application. On going through the said document it appears that the said document is between one Girdharlal & Company and the Shri Ambica Mills Limited i.e. by way of lease deed. When a pointed question is asked to the learned advocate appearing for the applicant to show how the applicant has derived any right on the basis of the said lease deed dated 26.6.1934, the learned advocate appearing for the applicant is not in a position to give satisfactory answer. Even on going through the said document it appears that there is no reference to the applicant. No documentary evidence is produced to show the title in favour of the applicant. The lease deed dated 26.6.1934 relied upon by the applicant is as stated hereinabove lease deed entered into between Girdharlal & Company and Shri Ambica Mills Limited. It is also required to be noted at this stage that the sale in favour of the GIDC has been confirmed long back for the purpose of construction of the

apparel park. When the applicant has miserably failed to substantiate his claim on the basis of the document at Annexure – A, the applicant is not entitled to any relief as claimed in the present application.

7. In the result, this application is dismissed. No costs.

[M.R.Shah, J.]

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